

Town of Union
PLAN COMMISSION MEETING
Minutes of July 30, 2009

The Town of Union Plan Commission meeting was called to order at the Eager Free Public Library, 39 W. Main St. Evansville, WI at 7:01 PM on July 30, 2009 by Chairman Alvin Francis. In attendance were Vice-Chairman Doug Zweizig, Kim Gruebling, Eric Larsen, Doug Lee, Dave Pestor and Renee Exum. Town Chairman Kendall Schneider and Supervisor Don Krajeck were also in attendance. Clerk Regina Ylvisaker was absent. Cathy Bembinster recorded the minutes.

Approve June 25, 2009 Plan Commission Minutes

Doug Zweizig questioned whether the Town Board had answered the question why Section 17.18 (3) (A) (ix) "The number and size of projected parcels, lots, or outlots upon a final land division" is included in the CUP application process outline? There was a motion but had they gotten an answer? Doug suggested maybe a reminder has to be made to have this question brought up to the Town Board again.

Motion to approve the June 25, 2009 Plan Commission minutes as written by Doug Zweizig. Dave Pestor seconded it. Motion carried by unanimous voice vote.

Public Hearing: Renewal of conditional use permit currently held by Scott McElroy for parcel 6-20-257.3, located on the south side of W. Croft Road between Hwy 104 and Pleasant Prairie Rd. in the NE 1/4, SW 1/4 of Section 31. Owner would like to continue to be able to raise 100 animal units on the parcel which is zoned A3 and currently allows only one animal unit per acre on the 7.4 acre parcel.

Alvin Francis said that the owner would like to continue current operations on this A3 parcel. There is already a Conditional Use Permit issued, this is a review of the waste management and water runoff management.

Public Hearing opened at 7:05 PM.

Scott McElroy was in attendance.

Scott McElroy said he had gotten a letter from the Town Engineer, Greg Hofmeister, who gave him a helpful step by step process of how to proceed with Conditional Use Permit renewal. He contacted the Rock County Land Conservation Department and they said he had to follow a nutrient management program for the manure. McElroy told Mr. Tadt, a representative from this department, that he already hauled his manure on Ed Arnold's land who has a nutrient management plan. McElroy hauls the manure on Arnold's land based on Arnold's plan and direction. Tadt indicated that all McElroy needed to do was get a letter from Arnold to be in complete compliance. Arnold provided McElroy with a letter that acknowledges this arrangement.

Francis asked whether Arnold had a nutrient management plan on the land around McElroy's property. McElroy said he didn't have a copy of the nutrient management plan, but Arnold indicated he does.

Francis asked McElroy what he considers his storage area. How many months would McElroy foresee storing manure? McElroy said he doesn't pile anything, and hasn't had a problem

getting an area to haul on. Francis expressed concern about spreading manure on Arnold's fields in June and July. McElroy said he could spread on his hay field after he takes his first cut.

Kendall Schneider said he would like it to go on record that he has never gotten a complaint about McElroy's operation.

Kim Gruebling said he would like the minutes to reflect that there have been no complaints or any complaints this year. Francis stated he didn't have any calls either.

Doug Zweizig said he wanted to point out that they didn't have any burning concerns about this conditional use permit. There are questions the Plan Commission has on the conditional use permit process in general that don't apply to McElroy. The questions are about how the Plan Commission issues and phrases a conditional use permit.

Doug Lee said McElroy has had a model application, more information than anyone else has ever submitted.

Francis reminded everyone that they were reviewing the conditions of waste management and water runoff, and he was satisfied the conditions were met.

There was a discussion on what direction the Plan Commission should proceed given the information from Attorney Dregne. They were not clear on their full responsibility in the conditional use permit process.

Schneider pointed out the Plan Commission needs to take action on what the request was for. The responsibility for renewal falls on the Plan Commission, and changes would need to be approved by the Town Board.

Don Krajeck said he thinks what happened is when they were redoing the ordinances the intent was for CUP review and approval authority to rest with the Plan Commission but was never changed in the ordinance. Zweizig suggested the ordinance should be more specific. Francis said from Dregne's letter he thought that at the next meeting Dregne would be going over the process for conditional use permits. Francis also said his feeling was from Dregne's letter that in this particular conditional use application they could review and approve or deny.

Renee Exum said her only concern was that there were things in the conditional use permit that maybe are not advisable to have, and if they approve it, then they are approving that for example it's not transferrable when the attorney raised the question on whether or not they can do that.

More discussion on how to proceed given potential consequences could transpire. Zweizig pointed out that they shouldn't issue a conditional use permit without attorney review. Dave Pestor said it was unfair to have McElroy come back when he had no knowledge that there was going to be these internal issues. Eric Larsen said they had the authority to renew or revoke it wasn't like McElroy was reapplying after a revocation. Larsen questioned the date on the conditional use permit and what conditional use permit they were actually approving, was there a 2009 version? The eventual conclusion was to proceed with approving the request.

Public Hearing closed at 7:40 PM.

Motion to approve the existing Conditional Use Permit issued to Scott McElroy for parcel 6-20-257.3, located on the south side of W. Croft Road between Hwy 104 and Pleasant Prairie Rd. in the NE 1/4, SW 1/4 of Section 31, allowing the owner to raise 100 animal units on the parcel which is zoned A3, with a review in July 2012 made by Kim Gruebling. Second by Doug Lee.

Motion to amend the motion to include "subject to attorney review" made by Renee Exum. Second by Doug Lee.

Larsen asked about the extending it for 3 years if they were going to update the process. Gruebling stated in 3 years it will be up for review, if there are any changes subject to attorney review McElroy can be issued a letter which he can accept or take up with the Town Board.

Roll call vote: Alvin Francis– Yes; Doug Zweizig – Yes; Kim Gruebling – Yes; Dave Pestor – Yes; Doug Lee – Yes; Eric Larsen – Yes; Renee Exum - Yes. Motion carried 7-0.

Francis stated the next issue to address was when to meet with Dregne. Motion to request the Town Board's approval to have legal counsel present at the next Plan Commission meeting to discuss the Conditional Use Permit process made by Renee Exum. Second by Doug Zweizig. Motion carried by unanimous voice vote.

Review and approval of Plan Commission signatures on draft letter to WI Department of Public Health RE: requesting the state study the potential health issues associated with large wind turbines.

Jim Bembinster, representing the wind committee, explained the reason for the letter. The Minnesota Office of Energy Security asked the Minnesota Department of Health to study the impacts of wind turbines on public health and safety after citizens inquired about siting standards for 2 new wind farms in Minnesota. One wind farm was being developed by Wisconsin Power and Light. The Minnesota Department of Health issued a white paper in May of 2009 concerning the public health impacts of wind turbines. The Town of Union Large Wind Citizens Committee final report was used as a reference in this report. The letter to the health department is to request that the Wisconsin Health Department do a similar study and it was felt that the endorsement of local government officials would give it more teeth than being requested by a citizen.

Francis asked how this would apply to the wind turbine siting. Bembinster said the hope would be that if the Wisconsin Department of Health determines there are health issues it may help to determine safe setback distances. Francis said that it would have to be done legislatively. Some discussion on the siting reform bills currently in the legislature.

Lee said with all the time, money and effort we had put into the wind ordinance, it would be nice to get some recognition. Zweizig commented that one of the things he liked about the letter is it asked for an evaluation of the issues and is not advocating one position or another. Schneider added that the Minnesota report was very thorough and Wisconsin should have one similar to that. He also noted that the Town of Center was sending the Town of Union a check for a couple of thousand dollars in appreciation because they basically adopted the Town of Union's Large Wind Ordinance.

Zweizig said in rereading the letter, Bembinster should double check the statement that sound doubles at 10 dBA. Zweizig has also read it stating sound doubles at 6 dBA.

Motion to send the letter to the Town Board for their review and signature made by Doug Lee. Second by Doug Zweizig. Larsen asked for clarification regarding whether they are acting as a group or as individuals. The consensus was to act as a group.

Roll call vote: Alvin Francis– Yes; Doug Zweizig – Yes; Kim Gruebling – Yes; Dave Pestor – Yes; Doug Lee – Yes; Eric Larsen – Yes; Renee Exum - Yes. Motion carried 7-0.

The Calumet County Appeals Court decision was additionally brought up. Lynda Barry said the only comments that have been made on this decision have come from Renew Wisconsin's attorney. It was decided to discuss this with Dregne and ask for his recommendation on how to proceed. Zweizig wanted to know what the statement "bad facts make bad law" pertains to. Motion to discuss the court decision and how it affects the wind ordinance with Matt Dregne made by Renee Exum. Second by Eric Larsen. Motion carried by unanimous voice vote. This request will be either approved or denied by the Town Board.

Evansville-Union Implementation Committee Update

Larsen received an email from Evansville stating that they tentatively agreed to coordinate the City and the Town's maps. The City had nothing designated on their map showing the Town's rural residential area. Additionally, there will be a meeting with the City's Plan Commission and the Town of Union's Plan Commission on August 12th at 6:30 PM at the Evansville Fire Station. Zweizig said to let him know if there are any particular items the Plan Commission members would like to discuss at the August 12th meeting.

Review and discussion of possible amendments and updates to the Town of Union Comprehensive Plan, including Land Use section

Francis expressed his concerns about the A1/A2 right to build a house and on the large scale trying to deal with a person getting around the zoning rules by just buying enough land because we let a person with an A1/A2 parcel build a house. After various scenarios the feeling was that the way the Plan Commission has been ruling on this recently by controlling future land use with deed restrictions on land divisions seems to be working and they've been consistent. Francis felt there could be a simpler way than deed restrictions.

Next item of discussion was the long term growth and short term growth map. Motion that a long term and a short term map are needed, and Plan Commission members will review the map with boundaries in mind for discussion at the next meeting made by Kim Gruebling. Larsen amended the motion to add current and future residential areas, as well as how "long term" and "short term" will be determined. Second by Eric Larsen. Motion carried by unanimous voice vote.

Motion to adjourn made by Eric Larsen. Second by Kim Gruebling. Motion carried by unanimous voice vote.